

COOLEY LLP  
BEATRIZ MEJIA (190948)  
(mejiab@cooley.com)  
KYLE C. WONG (224021)  
(kwong@cooley.com)  
LAUREN J. POMEROY (291604)  
(lpomeroy@cooley.com)  
3 Embarcadero Center, 20<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 693-2000  
Facsimile: (415) 693-2222  
  
MICHELLE C. DOOLIN (179445)  
(mdoolin@cooley.com)  
4401 Eastgate Mall  
San Diego, CA 92121  
Telephone: (858) 550-6000  
Facsimile: (858) 550-6420

Attorneys for Defendant  
APPLE INC.

THE KATRIEL LAW FIRM, P.C.  
ROY A. KATRIEL (265463)  
(rak@katriellaw.com)  
2262 Carmel Valley Road  
Suite 200-D  
Del Mar, CA 92014  
Telephone: (619) 363-3333

THE MEHDI FIRM, P.C.  
AZRA M. MEHDI (220406)  
(azram@themehdifirm.com)  
201 Mission Street  
Suite 1200  
San Francisco, CA 94105  
Telephone: (415) 293-8039  
Facsimile: (415) 432-4301

Class Counsel

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANDREA M. WILLIAMS AND JAMES  
STEWART, On Behalf of Themselves And  
All Others Similarly Situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 5:19-cv-04700-LHK

**NOTICE OF SETTLEMENT;  
UPDATED JOINT CASE  
MANAGEMENT STATEMENT;  
REQUEST FOR PRELIMINARY  
APPROVAL HEARING DATE**

Hon. Lucy H. Koh

Pursuant to the Northern District of California’s Standing Order regarding the content of the Joint Case Management Statement and Proposed Order, the Local Rules of the Northern District of California, the Federal Rules of Civil Procedure, and the Case Management Order dated September 9, 2021 continuing the case management conference to November 17, 2021 (ECF No. 128), Plaintiffs Andrea M. Williams and James Stewart (“Plaintiffs”) and Defendant Apple Inc. (“Apple” or “Defendant”) (collectively the “Parties” and each a “Party”) hereby submit this Updated Joint Case Management Statement.

### **Notice of Settlement**

The Parties attended a second full-day private mediation on October 27, 2021. At the end of the day, Judge Edward A. Infante (Ret.) made a mediator’s proposal. The Parties subsequently accepted the proposal and executed a Memorandum of Understanding (“MOU”) on November 10, 2021, which lays out the contours of a proposed class-wide settlement agreement that the Parties are currently negotiating.

Given the executed MOU, the Parties request that, as described below in Section 4, the Court vacate the remaining case schedule and set a briefing and hearing schedule for the motion for preliminary approval.

#### **1. Motions**

Had the Parties not executed an MOU, Apple anticipated that it would file motions for summary judgment, for decertification, and to strike Plaintiffs’ expert reports on or before the Court-appointed deadline for dispositive motions of December 9, 2021. Plaintiffs filed their motion to strike the expert reports and testimony of Drs. Carol Scott and Ronald T. Wilcox and also planned on filing a motion for full or partial summary judgment or summary adjudication by the Court-appointed deadline. Plaintiffs also reserved the right to file a motion for leave to file a motion for partial reconsideration of the portion of the Court’s Order that denied certification of a greater class period than the Court ultimately certified.

However, in light of the Parties’ executed MOU, the Parties request that the deadlines for these motions be vacated, or in the alternative, be pushed back as detailed in Section 4 below to give them the opportunity to complete and execute the settlement agreement.

1       2. Discovery

2           On August 19, 2021, the Parties served opening merits expert reports. Plaintiffs served merits  
3 expert reports from Dr. Scott D. Swain and Russell W. Mangum III, Ph.D., and Apple served a merits  
4 expert report from Dr. Carol Scott. On September 16, 2021, the Parties served rebuttal expert reports.  
5 Plaintiff served a rebuttal report from Dr. Swain, and Apple served rebuttal expert reports from Dr.  
6 Scott, Lorin M. Hitt, and Ronald T. Wilcox, Ph.D. Expert discovery closed on October 1, 2021.

7       3. Settlement and ADR

8           The Parties attended a private mediation on February 17, 2021, which was not successful. (*See*  
9 Joint Settlement Status Report Following Mediation, ECF No. 97.) After the Court issued its Order  
10 granting in part and denying in part Plaintiffs' motion for class certification and after fact and expert  
11 discovery had closed, the parties attended a second mediation session before the Hon. Edward A.  
12 Infante (Ret.). As noted above in the Notice of Settlement, the Parties have executed a MOU and are  
13 currently formalizing a settlement agreement, which will be filed as part of a motion for preliminary  
14 approval.

15       4. Scheduling

16           Given the executed MOU and the Parties' intention to finalize and execute the settlement  
17 agreement as soon as possible, the Parties respectfully request that the Court vacate the remaining  
18 events on the case schedule. If the Court declines to vacate the remaining events on the case schedule,  
19 the Parties respectfully request that the Court revise the case schedule as proposed below, which will  
20 allow the Parties to focus on the settlement agreement, the motion for preliminary approval, and class  
21 notice. This proposed schedule will also facilitate conservation of the significant party resources that  
22 the current briefing deadlines for dispositive and *Daubert* motions and Apple's decertification motion  
23 would entail. The schedule is based on a January 18, 2022 deadline to file the motion for preliminary  
24 approval, which provides a total of approximately 60 days for the Parties to finalize the settlement  
25 agreement and prepare the motion from the date of the CMC currently scheduled for November 17,  
26 2021.

Scheduled Event	Current Deadline	Requested Deadline
Stipulated or Unopposed Motion for Preliminary Approval	N/A	January 18, 2022
Hearing on Motion for Preliminary Approval (if necessary)	N/A	February 10, 2022 <sup>1</sup>
If no Motion for Preliminary Approval is filed, Last Day to File Dispositive Motions, Motions to Strike Expert Testimony, and Motion to Decertify or for Leave to File Partial Reconsideration of Denial of Larger Class Period (one summary judgment motion per side in the entire case; motion to strike up to two experts per side in the entire case)	December 9, 2021 (opening) January 5, 2022 (opposition) January 26, 2022 (reply)	February 15, 2022 (opening) March 15, 2022 (opposition) April 5, 2022 (reply)
Hearing on Dispositive Motions/Motions to Strike/Decertify/Reconsideration	February 10, 2022	April 28, 2022
Final Pretrial Conference	April 14, 2022 at 1:30 p.m.	June 16, 2022 at 1:30 p.m.
Jury Trial	May 2, 2022	July 18, 2022

<sup>1</sup> The Court already reserved February 10, 2022 for the hearing on the parties' summary judgment and *Daubert* motions. Given the parties' proposed class-wide settlement, they respectfully request that hearing date instead be reserved for a hearing on the anticipated Unopposed Motion for Preliminary Approval, if necessary.

1 Dated: November 10, 2021

THE KATRIEL LAW FIRM, P.C.

2 /s/ Roy A. Katriel

3 Roy A. Katriel

Class Counsel

4 Dated: November 10, 2021

COOLEY LLP

5 /s/ Michelle C. Doolin

6 Michelle C. Doolin

Attorneys for Apple Inc.

7 **ATTESTATION OF CONCURRENCE IN FILING**

8 Pursuant to Civ. L.R. 5-1(i)(3), I attest that concurrence in the filing of this document has  
9 been obtained from the signatory.

10  
11 Dated: November 10, 2021

/s/ Michelle C. Doolin

12 Michelle C. Doolin